



City of Seattle

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Gregory J. Nickels, Mayor  
**Department of Planning and Development**  
D. M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR OF  
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Application Number:** 2309006  
**Applicant Name:** Charles Grassia for Daniel Swanson  
**Address of Proposal:** 6205 Roosevelt Way NE

**PROPOSED ACTION**

Master Use Permit for a change of use of an existing childcare center use (1632 sq. ft.) to a mixed use development with an administrative office use on the ground level and the construction of a three level three unit apartment building to the rear. Parking will be provided below the proposed structure.

The following approval is required:

- **Variance** – To allow a mixed use in a structure not meeting the required floor to floor height per SMC 23.47.008-C2.
- **Variance** – To allow the entrance of a mixed use development to be greater than three (3) feet above sidewalk grade SMC 23.47.008-B7.

**SEPA DETERMINATION:** ☒ Exempt ☐ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading or demolition  
or involving another agency with jurisdiction

## **BACKGROUND DATA**

### **Site and Vicinity Description**

The property is a rectangular shaped interior lot 5,080sq. ft. in size. The site is zoned Neighborhood Commercial Two (NC2-40), with a 40 ft. height limit. The existing development on the site is a one-story wood frame building with a basement, also there is an existing paved parking area accessed by the abutting (16') improved alley located at the rear of the site. Currently the existing structure is permitted as a childcare center and the proposed use is administrative office.

The existing structure has pedestrian access to Roosevelt Way NE and the existing vehicle access from the improved (16') alley is to remain under the proposal.



Immediately north of the subject site is commercial structure and use which is Precision Audio Service. South of the site is one story architecture firm. Located to the west of the site is a large Lowrise Duplex/Triplex (LDT) zone in which there is a mix of single family residences, apartments and duplex & triplexes. To the east of the subject site is the extension of the NC2-40 zone across Roosevelt Way NE. Just beyond the NC2-40 zone to the east is a Single Family zone, which is developed as such. Surrounding zoning in the area consists of Lowrise Duplex/Triplex (LDT) Lowrise Two (L2), Neighborhood Commercial Three (NC3-65), and Single Family 5000 (SF 5000).

### **Proposal**

This proposal is to change the use of 1,632 sq. ft. of the existing child care use in the existing the structure to an administrative office use and establish use for the proposed three multifamily units proposed in the rear of the property. The proposal is to become a mixed-use development. Open space will be provided in the form of a roof garden accessed by the proposed penthouse atop the newly

proposed structure. Three new parking spaces are proposed underneath the proposed structure and one is to remain for a total of four parking spaces.

### Public Comment

DPD received one public comment letter during the comment period, which ended on March 17<sup>th</sup>, 2004. The comment letter expressed concerns about the proposed structure's visual impact to the adjacent residential zone (LDT), blockage of sunlight into the respondent's property and east-facing rooms, driveway access issues from the alley, and vehicle noise reflection from I-5 off of the proposed structure.

### ANALYSIS-VARIANCE

Variances from the provisions or requirements of this Land Use Code shall be authorized when all the facts and conditions listed below are found to exist:

1. ***Because of unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity;***

The unusual condition associated with the subject property is that the existing structure was built and has existed on the subject property prior to the adoption of the current zoning code and specifically the development standards for mixed use development (SMC 23.47.008). Since the building was originally constructed in 1918, the owner(s) could not have known about the future requirements for mixed use development, specifically the 13' foot first floor height requirement and three (3) foot maximum entrance elevation change from the sidewalk grade.

The existing structure is conforming to commercial requirements, but because the existing ceiling height is 9'-10", the change of use from commercial to a mixed use development creates non-conformity with regard to the required first floor 13' floor-to-floor height requirement of SMC 23.47.008-C2. Also, the requirement of SMC 23.47.008-B7, states that difference in sidewalk grade to the structure entrance elevation is only permitted to have a maximum 3' difference in elevation.

The applicant is proposing to maintain the existing first floor height of 9'-10". The proposal includes a three-story multifamily addition to the rear of the property as the existing structure will remain with only the commercial use changing and a minor alteration to the rear stairs leading into the existing basement, which are to be removed. Mixed use development consists of residential and non-residential use in the same structure or in separate structures on the same lot and meeting the standards specified in SMC 23.47.008. Since the 13' floor-to-floor requirement on the 1<sup>st</sup> floor of the existing structure cannot be met unless the existing structure is raised 3'-1", the strict application of the Land Use Code would deprive the property rights and privileges enjoyed by others. Others in the vicinity have had similar

situations as the subject application. The property addressed 6215 Roosevelt Way NE received a building permit\* to construct a commercial and residential addition to an existing single purpose commercial structure. A portion of the commercial structure was moved to the rear of the site and occupied as an apartment. The remaining space remained commercial and was improved and the roof replaced. This commercial addition/improvement and roof replacement was constructed to a new 11'-2" floor to floor height along Roosevelt Way NE. It should be noted that this permit was granted prior to the 13' floor to floor first floor requirement and no variance was required, nonetheless this neighbor enjoys the privilege of having a first floor height of less than 13'. So in this case the strict application of the Land Use Code would deprive the owner the privileges enjoyed by the neighbor to the north. It would cause an undue hardship on the applicants to raise the existing first floor to 13' and to lower the elevation to be within 3' of the sidewalk grade elevation in order to change the use to mixed use development.

**2. *The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located;***

Approving the proposed variance would not constitute a grant of special privilege and would not go beyond the minimum necessary to afford relief. The applicant is asking for a waiver from the 13' height requirement and 3' maximum elevation change from sidewalk to building entry for mixed use development as the existing structure is to remain. The granting of the variance is not a grant of special privilege, at least one other neighboring property in the same zone, as mentioned above, is privy to a first floor height less than 13'. The existing structure is not proposed to be altered except that a change of use is proposed and the rear stairs are to be removed, but no structural or façade changes. Worth noting, if the commercial portion of the structure is demolished and rebuilt the mixed use standards will apply.

In this case, the request for the variance is the minimum necessary as the 9'-10" first floor height exists and the relief from the 13' requirement and the 3' maximum elevation difference in sidewalk and building entrance is all that is required for the development to be permitted as mixed use. All other mixed development standards of SMC 23.47.008 will be met, so the intent of mixed use development is met by the proposal.

**3. *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located;***

The granting of these variances would not be materially detrimental to the public welfare, because the proposed change of use will not compromise the viability of commercial uses along Roosevelt, or the adjacent LDT zone as the existing structure will remain with no changes. Furthermore, it will not adversely affect bulk and scale, shadows, traffic, parking, noise and view impacts beyond what could

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\* DPD MUP No. 8806978 Permit No. 643500 (microfilmed finalized permit and plans)

be constructed if the structure were to meet the current requirement of first floor height of 13' and 3' maximum elevation difference in sidewalk and building entrance. This is especially true for the proposed apartments, as they will meet all zoning requirements as no part of the requested variances will modify the new structure in any way. The footprint and height of the existing structure will not be increased. The proposed structure will meet all setbacks, height and other land use requirements. Two proposed parking places are for the residential use and two spaces are proposed for the commercial use, for a total of four (4) parking spaces to be provided. As a result, this variance if approved will not be materially detrimental to the public welfare or injurious to the property or improvements in the subject Neighborhood Commercial Zone or neighboring LDT zone.

**4. *The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue and unnecessary hardship;***

The existing structure was built prior to the adoption of current development standards. The mixed-use development standards in commercial zones were designed for new development to be usable as non-residential uses and to be pedestrian friendly. The literal interpretation and strict application of the applicable provisions or requirements of the Code would require the applicant to perform major structural alterations and remodeling of the first floor ceiling to achieve the code required 13' first floor ceiling height. Also the existing floor plate level would need to be lowered in order to meet the 3' maximum elevation change from the entry on the street to the sidewalk grade level. Meeting code development standard for the proposed mixed use development would be impractical due to the existing 9'-10'" first floor to ceiling height and the current 4' elevation difference from the existing entry to the existing sidewalk grade. If the variance(s) were not granted, the proposal would require the reconstruction of the 1<sup>st</sup> floor ceiling to achieve 13' first floor height and the entire front entry floor elevation would need to be lower by at least 1'. Since no portion of the existing structure is proposed to be altered by the proposal, except the removal of the rear steps, it would cause an undue and unnecessary hardship.

Therefore, denial of the requested variance would cause undue and unnecessary hardship because the existing structure and Land Use Code would not allow a change to a mixed-use structure without variance approval or, alternatively it would require major alterations to the existing structure. The proposal would allow the applicant to change the use of the existing structure to development that is compatible with the neighborhood commercial zoning of the property and compatible to surrounding uses in which the structure is located. Given the nature of the existing structure and the proposal by the proponent, it would cause undue and unnecessary hardship to reconstruct or raise the second floor to the required 13' first floor height and alter the entry to be within 3' of sidewalk grade.

**5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code and adopted Land Use regulations for the area.***

The Neighborhood Commercial development standards seek to ensure that the scale of uses is compatible with the character and function of the commercial area. The existing structure will remain unaltered while the proposed structure will add dwelling units to a site that currently has only commercial

uses. Adding dwelling units to the same site as commercial is one goal of mixed use development and the Land Use Code. The requested variance would not detract from the character of the surrounding commercial and residential community. Granting the variance would be consistent with the spirit and purpose of the Land Use Code regulations.

### **DECISION - VARIANCE**

Variance – To allow a mixed use in a structure not meeting the required floor to floor height per SMC 23.47.008-C2 - **GRANTED**.

Variance – To allow a mixed use in a structure not meeting the required floor to floor height per SMC 23.47.008-B7 - **GRANTED**

### **CONDITIONS - VARIANCE**

None.

Signature: \_\_\_\_\_ (signature on file) Date: January 3, 2005  
Lucas DeHerrera, Land Use Planner

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